



April 26, 2017

BY ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: NOTICE OF EX PARTE
MB Docket No. 16-306: *Post-Incentive Auction Transition*
GN Docket No. 12-268: *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*

Dear Ms. Dortch:

Competitive Carriers Association (“CCA”)¹ writes in response to the Federal Communications Commission’s (“FCC” or “Commission”) Public Notice² seeking comment on the Petition for Reconsideration (“Petition”) filed by the National Association of Broadcasters (“NAB”).³ CCA shares the FCC’s commitment to ensure a successful 600 MHz incentive auction from start to finish, and applauds the Commission’s adopted transition schedule.⁴ In this letter, CCA opposes NAB’s Petition⁵ because, among other reasons, it fails to provide valid substantive or procedural reasons to further prolong the FCC’s final rulemaking to uphold the Congressionally-based 39-month transition deadline.⁶

¹ CCA is the leading association for competitive wireless providers and stakeholders across the United States. CCA’s membership includes nearly 100 competitive wireless providers ranging from small, rural carriers serving fewer than 5,000 subscribers, to regional and national providers serving millions of customers. CCA also represents approximately 200 associate members consisting of small businesses, vendors, and suppliers that provide products and services throughout the mobile communications supply chain.

² *Petition for Reconsideration of Action in Rulemaking Proceeding*, Public Notice, MB Docket No. 16-306, GN Docket No. 12-268, Rep. No. 3072 (rel. Mar. 29, 2017) (“Public Notice”).

³ Petition for Reconsideration of the National Association of Broadcasters, GN Docket No. 12-268, MB Docket No. 16-306 (filed Mar. 17, 2017) (“Pet.”).

⁴ *See Incentive Auction Task Force and Media Bureau Adopt a Post-Incentive Auction Transition Scheduling Plan*, Public Notice, MB Docket No. 16-306, GN Docket No. 12-268, DA 17-107 (Jan. 27, 2017); *see also* 82 Fed. Reg. 11,106 (Feb. 17, 2017).

⁵ *See Opposition to Petition for Reconsideration*, Competitive Carriers Association, MB Docket No. 16-306, GN Docket No. 12-268 (filed Mar. 29, 2017) (“CCA Opposition”) (attached).

⁶ *See In the Matter of Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, 29 FCC Rcd 6567 ¶ 560 (2014) (“*Incentive Auction Order*”).

Attached is CCA's Opposition to NAB's Petition for Reconsideration. Here, we highlight why the FCC should reject NAB's Petition and continue to implement its proposed post-auction repacking process that will allow rural, regional, and nationwide carriers, alike, to access the critical low-band spectrum that they purchased for almost \$20 billion. While the expeditious transition of spectrum to wireless use is key to future broadband deployment, the FCC's adopted 600 MHz transition timeline also will provide an engine for economic stimulation and job opportunities across rural America.

First, focusing on substantive deficiencies, the Petition is meritless and should be dismissed. NAB's Petition fails to meaningfully address the Media Bureau's actual post-auction transition plan, and instead offers fleeting assertions that lack substantive merit.⁷ NAB can hardly claim that the FCC's final rulemaking – the result of which is the product of numerous years of advocacy by a variety of stakeholders – can reasonably be deemed an “afterthought,”⁸ and this assertion should be promptly rejected.

Spectrum is critically important for competitive carriers to buildout their networks and satisfy consumers' desires for enhanced services and innovative technologies. The record in this proceeding further demonstrates a significant need for expeditious clearing of 600 MHz spectrum for wireless broadband services, especially in rural and remote parts of the United States. The Commission should deny NAB's Petition which will introduce delay and uncertainty in this process, and instead, complete the post-incentive auction transition within the statutorily-based timeline.

Procedurally, NAB's Petition is an impermissible attack on the Commission's 39-month relocation timeframe.⁹ NAB already has tried, and failed, to challenge the Commission's final rulemaking before both the FCC and the court.¹⁰ Further, NAB's latest Petition arrives nearly 1,000 days after the statutory 30-day deadline to pursue a challenge of the post-auction transition timeline.¹¹ For policy as well as procedural reasons, its Petition should be promptly dismissed.

⁷ CCA Opposition at 3-8.

⁸ Pet. at 4-5.

⁹ Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156 (2012) (the “Spectrum Act”). By the time the 39-month active relocation period ends, broadcasters and suppliers of critical inputs will have had more than seven years to prepare for the introduction of new wireless broadband services contemplated by Congress' adoption of the landmark Spectrum Act of 2012, which identified the broadcast television bands for auction and relocation.

¹⁰ See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Report & Order, 29 FCC Rcd 6567, 6796-802 ¶¶ 559-73 (2014) (“*Incentive Auction Order*”) (establishing a 39-month post-auction transition period for broadcasters that are assigned new channels in the repacking process, which includes a three-month period during which broadcasters will complete and file their construction permit applications followed by a 36-month period consisting of varied construction deadlines). See also *Nat'l Ass'n of Broadcasters v. Fed. Comm'n's Comm'n*, 789 F.3d 165 (D.C. Cir. 2015) (upholding the FCC's 39-month transition period).

¹¹ CCA Opposition at 9-11.

This *ex parte* notification is being filed electronically with your office pursuant to Section 1.1206 of the Commission's rules. Please do not hesitate to contact me with any questions or concerns.

Respectfully submitted,

/s/ Rebecca Murphy Thompson

Rebecca Murphy Thompson
EVP & General Counsel
Competitive Carriers Association

Attachment: CCA Opposition to NAB Petition for Reconsideration

cc (via email): Rachael Bender
Joyce Bernstein
Robin Colwell
Gary Epstein
Erin Griffith
David Grossman
Nese Guendelsberger
Kevin Harding
Sasha Javid

Jean Kiddoo
Shaun Maher
Erin McGrath
Charles Meisch
Daudeline Meme
Evan Morris
Alison Nemeth
Jim Schlichting
Margaret Wiener